

Message Text

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ORIGIN EB-11

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EA/AN - MR. DORRANCE (SUB)

CAB - MR. GREEN (SUB)

L/EB - MR. GAITHER (DRAFT)

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FM SECSTATE WASHDC

TO AMEMBASSY WELLINGTON

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E.O. 11652: N/A

TAGS: ETRN, AREG, US, NZ

SUBJ: NEW ZEALAND REQUESTS FOR COCKPIT AUTHORIZATIONS AND
FREE TRANSPORTATION ON AMERICAN AIRLINES

1. NEW ZEALAND CIVIL AVIATION AUTHORITIES HAVE ADVISED AMERICAN AIRLINES (AAL) THAT PURSUANT TO NEW ZEALAND REGULATIONS THE U.S. CARRIER WOULD BE REQUIRED TO FURNISH FREE TRANSPORTATION UPON REQUEST, TO CERTAIN PERSONNEL OF DEPARTMENT OF CIVIL AVIATION, APPARENTLY FOR PURPOSES OF CHECKING THE AIR CARRIER'S OPERATIONS. NEW ZEALAND AUTHORITIES HAVE INDICATED SUCH TRAVEL IS SPARINGLY USED BUT HAVE REQUESTED THAT AMERICAN BE PREPARED HONOR SUCH REQUESTS.

2. INSOFAR AS FREE TRANSPORTATION IS CONCERNED, CIVIL AERONAUTICS BOARD'S GENERAL POLICY IS TO APPROVE, AS A MATTER OF INTERNATIONAL COMITY, CARRIER APPLICATIONS FOR FREE OR REDUCED RATE TRANSPORTATION MADE PURSUANT TO FOREIGN GOVERNMENT REQUESTS BUT HAS INDICATED THAT THE
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BOARD EXPECTS THAT FOREIGN GOVERNMENTS WILL EXERCISE

CAREFUL DISCRETION IN MAKING SUCH REQUESTS.

3. AMERICAN HAS QUERIED FAA AS TO WHETHER NEW ZEALAND CIVIL AVIATION AUTHORITIES WOULD BE AUTHORIZED ACCESS TO THE AIRCRAFT FLIGHT DECK IN CONNECTION WITH THEIR CHECKING AIRLINE'S OPERATIONS. THE ANSWER IS NEGATIVE. FAA REGULATIONS DO NOT CONTEMPLATE ADMISSION OF FOREIGN CIVIL AVIATION AUTHORITIES TO FLIGHT DECK OF U.S.-REGISTERED AIRCRAFT. IN FAA VIEW, INTERNATIONAL CONVENTION OF CIVIL AVIATION (CHICAGO) ACCORDS PRIMARY RESPONSIBILITY TO STATE OF REGISTRY OF AIRCRAFT AND STATE CERTIFICATING THE AIRMEN OR AIRLINES CONCERNED, (IN BOTH CASES THIS INSTANCE, THE U.S.) FOR ASSURING COMPLIANCE WITH APPLICABLE REGULATIONS. ANY ARRANGEMENT GIVING THIS AUTHORITY TO ANOTHER STATE WOULD CONFLICT WITH THE RIGHTS AND PRIVILEGES OF THE STATE OF REGISTRY. ACCORDINGLY, THE FAA DOES NOT REQUIRE FAA PERSONNEL TO BE PRESENT ON FLIGHTS OF FOREIGN AIR CARRIERS OPERATING TO THE U.S., BUT RATHER RELIES ON THE COUNTRY OF REGISTRY TO ASSURE THAT AIRMEN ARE PROPERLY CERTIFICATED AND THE AIRCRAFT IS OPERATED ACCORDING TO THE APPLICABLE REGULATIONS.

4. NEW ZEALAND'S RIGHT TO ENSURE COMPLIANCE WITH THE AIR TRAFFIC RULES APPLICABLE IN THE AIR SPACE UNDER THAT COUNTRY'S CONTROL, AND TO INVESTIGATE OR TAKE APPROPRIATE ENFORCEMENT ACTION SHOULD INCIDENTS OF NON-COMPLIANCE OCCUR IS NOT QUESTIONED. FAA DOES NOT, HOWEVER, BELIEVE THIS RIGHT EXTENDS TO "CHECKING" THE COMPETENCE OF INDIVIDUAL U.S.-CERTIFICATED AIRMEN FLYING FOR U.S. AIRLINES, OR CHECKING THE OPERATION OF THE AIRLINE IN THE MANNER WHICH APPEARS TO BE CONTEMPLATED BY NEW ZEALAND AUTHORITIES. UNDER ROUTINE SURVEILLANCE OF AAL OPERATIONS, INCLUDING THEIR FLIGHTS INTO NEW ZEALAND, FAA ASSURES THAT THE AIRMEN USED ARE COMPETENT AND THAT OPERATIONS CONFORM TO THE VERY EXTENSIVE REQUIREMENTS OF FARs PART 121 AND PART 91 WHICH INCLUDES THE REQUIREMENT TO COMPLY WITH REGULATIONS RELATING TO THE FLIGHT AND MANEUVER OF AIRCRAFT IN FORCE WITHIN FOREIGN COUNTRIES. THE FAA WOULD OF COURSE TAKE APPROPRIATE ENFORCEMENT ACTION IN THE EVENT OF ANY VIOLATIONS OF THESE REGULATIONS.

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5. FOR THE FOREGOING REASONS, FAA IS OPPOSED TO NEW ZEALAND CIVIL AVIATION PERSONNEL CHECKING THE COMPETENCE OF AMERICAN CREW MEMBERS AND AIRLINE FLIGHT OPERATIONS AND WOULD NOT, THEREFORE, AUTHORIZE ACCESS TO FLIGHT DECK OF U.S.-REGISTERED AIRCRAFT BY SUCH PERSONNEL.

6. REQUEST EMBASSY CONVEY FOREGOING FAA VIEWS TO

APPROPRIATE AUTHORITIES, AND SEEK CLARIFICATION NEW
ZEALAND REQUEST TO AMERICAN AIRLINES. PLEASE RESPOND
BY CABLE. ROGERS

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